

1 Mark E. Merin (State Bar No. 043849)
2 Paul H. Masuhara (State Bar No. 289805)
3 LAW OFFICE OF MARK E. MERIN
4 1010 F Street, Suite 300
5 Sacramento, California 95814
6 Telephone: (916) 443-6911
7 Facsimile: (916) 447-8336
8 E-Mail: mark@markmerin.com
9 paul@markmerin.com

Alison Berry Wilkinson (SBN 135890)
Berry | Wilkinson | Law Group
165 North Redwood Drive, Suite 206
San Rafael, CA 94903
Telephone: 415.259.6638
Facsimile: 877.259.3762
Email: alison@berrywilkinson.com

Attorneys for Defendant DAMIAN SPARKS

6 Attorneys for Plaintiff
7 MIGUEL RODRIGUEZ CORTEZ
8 and VIKTORIA DESIREE MERCADO

9 James N. Fincher, SBN 196837
10 Merced County Counsel
11 Roger S. Matzkind, SBN 77331
12 Chief Civil Litigator
13 Janine L. Highet-Ivicevic, SBN 254405
14 Deputy County Counsel
15 2222 M Street, Room 309
16 Merced, CA 95340
17 Tel: (209) 385-7564
18 Fax: (209) 726-1337
19 Email: Roger.Matzkind@countyofmerced.com;
20 Janine.Highet-Ivicevic@countyofmerced.com

21 Attorneys for Defendants
22 COUNTY OF MERCED, MERCED COUNTY
23 SHERIFF'S OFFICE, and VERNON H. WARNKE

24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
5510
5511
5512
5513
5514
5515
5516
5517
5518
5519
5520
5521
5522
5523
5524
5525
5526
5527
5528
5529
5530
5531
5532
5533
5534
5535
5536
5537
5538
5539
55310
55311
55312
55313
55314
55315
55316
55317
55318
55319
55320
55321
55322
55323
55324
55325
55326
55327
55328
55329
55330
55331
55332
55333
55334
55335
55336
55337
55338
55339
55340
55341
55342
55343
55344
55345
55346
55347
55348
55349
55350
55351
55352
55353
55354
55355
55356
55357
55358
55359
55360
55361
55362
55363
55364
55365
55366
55367
55368
55369
55370
55371
55372
55373
55374
55375
55376
55377
55378
55379
55380
55381
55382
55383
55384
55385
55386
55387
55388
55389
55390
55391
55392
55393
55394
55395
55396
55397
55398
55399
553100
553101
553102
553103
553104
553105
553106
553107
553108
553109
553110
553111
553112
553113
553114
553115
553116
553117
553118
553119
553120
553121
553122
553123
553124
553125
553126
553127
553128
553129
553130
553131
553132
553133
553134
553135
553136
553137
553138
553139
553140
553141
553142
553143
553144
553145
553146
553147
553148
553149
553150
553151
553152
553153
553154
553155
553156
553157
553158
553159
553160
553161
553162
553163
553164
553165
553166
553167
553168
553169
553170
553171
553172
553173
553174
553175
553176
553177
553178
553179
553180
553181
553182
553183
553184
553185
553186
553187
553188
553189
553190
553191
553192
553193
553194
553195
553196
553197
553198
553199
553200
553201
553202
553203
553204
553205
553206
553207
553208
553209
553210
553211
553212
553213
553214
553215
553216
553217
553218
553219
553220
553221
553222
553223
553224
553225
553226
553227
553228
553229
553230
553231
553232
553233
553234
553235
553236
553237
553238
553239
553240
553241
553242
553243
553244
553245
553246
553247
553248
553249
553250
553251
553252
553253
553254
553255
553256
553257
553258
553259
553260
553261
553262
553263
553264
553265
553266
553267
553268
553269
553270
553271
553272
553273
553274
553275
553276
553277
553278
553279
553280
553281
553282
553283
553284
553285
553286
553287
553288
553289
553290
553291
553292
553293
553294
553295
553296
553297
553298
553299
553200
553201
553202
553203
553204
553205
553206
553207
553208
553209
553210
553211
553212
553213
553214
553215
553216
553217
553218
553219
553220
553221
553222
553223
553224
553225
553226
553227
553228
553229
553230
553231
553232
553233
553234
553235
553236
553237
553238
553239
553240
553241
553242
553243
553244
553245
553246
553247
553248
553249
553250
553251
553252
553253
553254
553255
553256
553257
553258
553259
553260
553261
553262
553263
553264
553265
553266
553267
553268
553269
553270
553271
553272
553273
553274
553275
553276
553277
553278
553279
553280
553281
553282
553283
553284
553285
553286
553287
553288
553289
553290
553291
553292
553293
553294
553295
553296
553297
553298
553299
553300
553301
553302
553303
553304
553305
553306
553307
553308
553309
553310
553311
553312
553313
553314
553315
553316
553317
553318
553319
553320
553321
553322
553323
553324
553325
553326
553327
553328
553329
553330
553331
553332
553333
553334
553335
553336
553337
553338
553339
5533310
5533311
5533312
5533313
5533314
5533315
5533316
5533317
5533318
5533319
55333100
55333101
55333102
55333103
55333104
55333105
55333106
55333107
55333108
55333109
55333110
55333111
55333112
55333113
55333114
55333115
55333116
55333117
55333118
55333119
553331100
553331101
553331102
553331103
553331104
553331105
553331106
553331107
553331108
553331109
553331110
553331111
553331112
553331113
553331114
553331115
553331116
553331117
553331118
553331119
5533311100
5533311101
5533311102
5533311103
5533311104
5533311105
5533311106
5533311107
5533311108
5533311109
5533311110
5533311111
5533311112
5533311113
5533311114
5533311115
5533311116
5533311117
5533311118
5533311119
55333111100
55333111101
55333111102
55333111103
55333111104
55333111105
55333111106
55333111107
55333111108
55333111109
55333111110
55333111111
55333111112
55333111113
55333111114
55333111115
55333111116
55333111117
55333111118
55333111119
553331111100
553331111101
553331111102
553331111103
553331111104
553331111105
553331111106
553331111107
553331111108
553331111109
553331111110
553331111111
553331111112
553331111113
553331111114
553331111115
553331111116
553331111117
553331111118
553331111119
5533311111100
5533311111101
5533311111102
5533311111103
5533311111104
5533311111105
5533311111106
5533311111107
5533311111108
5533311111109
5533311111110
5533311111111
5533311111112
5533311111113
5533311111114
5533311111115
5533311111116
5533311111117
5533311111118
5533311111119
55333111111100
55333111111101
55333111111102
55333111111103
55333111111104
55333111111105
55333111111106
55333111111107
55333111111108
55333111111109
55333111111110
55333111111111
55333111111112
55333111111113
55333111111114
55333111111115
55333111111116
55333111111117
55333111111118
55333111111119
553331111111100
553331111111101
553331111111102
553331111111103
553331111111104
553331111111105
553331111111106
553331111111107
553331111111108
553331111111109
553331111111110
553331111111111
553331111111112
553331111111113
553331111111114
553331111111115
553331111111116
553331111111117
553331111111118
553331111111119
5533311111111100
5533311111111101
5533311111111102
5533311111111103
5533311111111104
5533311111111105
5533311111111106
5533311111111107
5533311111111108
5533311111111109
5533311111111110
5533311111111111
5533311111111112
5533311111111113
5533311111111114
5533311111111115
5533311111111116
5533311111111117
5533311111111118
5533311111111119
55333111111111100
55333111111111101
55333111111111102
55333111111111103
55333111111111104
55333111111111105
55333111111111106
55333111111111107
55333111111111108
55333111111111109
55333111111111110
55333111111111111
55333111111111112
55333111111111113
55333111111111114
55333111111111115
55333111111111116
55333111111111117
55333111111111118
55333111111111119
553331111111111100
553331111111111101
553331111111111102
553331111111111103
553331111111111104
553331111111111105
553331111111111106
553331111111111107
553331111111111108
553331111111111109
553331111111111110
553331111111111111
553331111111111112
553331111111111113
553331111111111114
553331111111111115
553331111111111116
553331111111111117
553331111111111118
553331111111111119
5533311111111111100
5533311111111111101
5533311111111111102
5533311111111111103
5533311111111111104
5533311111111111105
5533311111111111106
5533311111111111107
5533311111111111108
5533311111111111109
5533311111111111110
5533311111111111111
5533311111111111112
5533311111111111113
5533311111111111114
5533311111111111115
5533311111111111116
5533311111111111117
5533311111111111118
5533311111111111119
55333111111111111100
55333111111111111101
55333111111111111102
55333111111111111103
55333111111111111104
55333111111111111105
55333111111111111106
55333111111111111107
55333111111111111108
55333111111111111109
55333111111111111110
55333111111111111111
55333111111111111112
55333111111111111113
55333111111111111114
55333111111111111115
55333111111111111116
55333111111111111117
55333111111111111118
55333111111111111119
553331111111111111100
553331111111111111101
553331111111111111102
553331111111111111103
553331111111111111104
553331111111111111105
5533311

STIPULATION

1. The parties to the above-entitled action, Defendants COUNTY OF MERCED, *et al.*, and Plaintiffs MIGUEL RODRIGUEZ CORTEZ and VIKTORIA DESIREE MERCADO. by and through their counsel of record, hereby stipulate to entry of the attached protective order covering materials produced or received (including in response to subpoenas) in relation to an early settlement conference which they intend to schedule. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Paragraph 5, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; rather, Civil Local Rule 141 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

The materials included in the above-mentioned protective order are as follows:

- a. Medical records; and
- b. Any document produced formally or informally in connection with the early settlement conference, which the parties are in the process of scheduling.

All “confidential material” shall be designated by stamping or otherwise marking each such document as follows: “CONFIDENTIAL—SUBJECT TO PROTECTIVE ORDER”.

2. Confidential material shall be used solely in connection with the early settlement conference in the within action (Case No. 1:20-cv-00161-NONE-SAB) and not for any other purpose, including any other litigation, without the express approval of this court, except as set forth in paragraph 7(a), below.

3. Confidential material may not be disclosed, except as is provided in paragraphs 4 and 5, below.

4. Confidential material may be disclosed only to the following persons: (a) counsel for any party to this litigation; (b) paralegal, stenographic, clerical, and secretarial personnel regularly employed

1 by counsel for the parties in this litigation; (c) court personnel, including stenographic reporters engaged
2 in such proceedings as are necessarily incidental to preparation for trial in this action; and (4) retained
3 experts. Nothing in this paragraph (4) is intended to prevent officials or employees of any defendant, or
4 other authorized government officials, from having access to the documents so designated if they would
5 have such access in the normal course of their job duties. Furthermore, nothing herein prevents any
6 witness from disclosing events or activities personal to him or her. Finally, nothing in this paragraph (4)
7 prevents defendant SPARKS from viewing materials produced from his own personnel file.

8 5. Without written permission from the party designating materials as confidential or a court
9 order secured after appropriate notice to all interested persons, a party may not file in the public record in
10 this action any confidential material. A party that seeks to file under seal any confidential material must
11 comply with Civil Local Rule 141. Confidential material may only be filed under seal pursuant to a court
12 order authorizing the sealing of the specific confidential material at issue. Pursuant to Civil Local Rule
13 141, a sealing order will issue only upon a request establishing that the confidential material at issue is
14 privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a request by
15 a party in receipt of material designated confidential to file said confidential material under seal pursuant
16 to Civil Local Rule 141 is denied by the court, then the party in receipt of the material designated as
17 confidential may file the information in the public record unless otherwise instructed by the court.

18 6. Each person to whom disclosure is made, with the exception of counsel, who are
19 presumed to know the contents of this protective order, shall be provided by the person furnishing him or
20 her “confidential material,” as designated hereunder, with a copy of this order, and shall agree on the
21 record, in writing, that he or she has read this protective order and consents to be subject to the
22 jurisdiction of this court with respect to the enforcement of this order, including without limitation, any
23 proceeding for contempt. Unless such agreement is made on the record in this litigation, counsel making
24 the disclosure to any person described above shall retain the original executed copy of said written
25 agreement until final termination of this litigation.

26 7. If the matter settles at the conclusion of the early settlement conference all confidential
27 material received under the provisions of this order, including any copies made thereof, shall be tendered
28

1 back to the appropriate parties or their attorneys. Provisions of this order, insofar as they restrict the
2 disclosure and use of the material, shall remain in full force and effect until further order of this court.
3

4 a. If the matter does not resolve at the conclusion of the early settlement conference,
5 any documents secured by subpoena shall be used solely in connection with the litigation in this action
6 (Case No. 1:20-cv-00161-NONE-SAB) and not for any other purpose, including any other litigation,
7 without the express approval of this court.

8 8. The foregoing is without prejudice to the right of any party to this action: (a) to apply to
9 the court for a further protective order relating to any confidential material or relating to discovery in this
10 litigation; (b) to apply to the court for an order removing the confidential material designation from any
11 document; and, (c) to apply to the court for an order compelling production of documents or for
12 modification of this order or for any order permitting disclosure of confidential material beyond the terms
13 of this order.

14 Counsel for the parties to this action hereby declare that they have read the foregoing, that they
15 approve thereof as to form and content, and that, on behalf of their clients in this action, they stipulate
16 thereto.

17 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

18
19 Dated: April 16, 2020

Respectfully Submitted,
LAW OFFICE OF MARK E. MERIN

20 /s/ *Mark E. Merin*
(as authorized on April 16, 2020)

21 By: _____
Mark E. Merin
22 Attorneys for Plaintiffs
23 MIGUEL RODRIGUEZ CORTEZ
24 and VIKTORIA DESIREE MERCADO
25
26
27
28

1 Dated: April 13, 2020

Respectfully Submitted,
2 Merced County Counsel's Office

3 */s/ Roger Matzkind*
4 (as authorized on April 13, 2020)

5 By: _____

6 Roger S. Matzkind
7 Janine L. Highet-Ivicevic

8 Attorneys for Defendants
9 COUNTY OF MERCED, MERCED COUNTY
10 SHERIFF'S OFFICE, and VERNON H. WARNE
11

12 Dated: April 17, 2020

13 Respectfully Submitted,
14 Berry | Wilkinson | Law Group

15 By: /s/ Alison Berry Wilkinson
16 Attorneys for Defendant DAMIAN SPARKS
17

18 ATTORNEY ATTESTATION

19 I, Alison Berry Wilkinson, am the ECF user whose identification and password are being
20 used to file the foregoing documents. Pursuant to Local Rule 131(e), I hereby attest that concurrence
21 in the filing of these documents has been obtained from each of its signatories.

22 Dated: April 17, 2020

23 By: /s/ Alison Berry Wilkinson
24 Alison Berry Wilkinson

25 ORDER

26 Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that:

27 1. The parties' stipulation for a protective order is issued covering materials produced or
28 received (including in response to subpoenas) in relation to the agreed early settlement
conference. All documents produced formally or informally in connection with the early
settlement conference, including medical records, shall be handled in accordance with
paragraphs 1-8 above.

2. The parties are advised that pursuant to the Local Rules of the United States District
Court, Eastern District of California, any documents which are to be filed under seal
will require a written request which complies with Local Rule 141; and

1 3. The party making a request to file documents under seal shall be required to show
2 good cause for documents attached to a nondispositive motion or compelling reasons
3 for documents attached to a dispositive motion. Pintos v. Pacific Creditors Ass'n,
4 605 F.3d 665, 677-78 (9th Cir. 2009).
5

6 IT IS SO ORDERED.
7

8 Dated: April 17, 2020


9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES MAGISTRATE JUDGE